

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

CHAD M. BUBRICK,

Plaintiff

VS.

DAVID FRAZIER, *et al.*,

Defendants

NO. 5:09-CV-13 (CAR)

**PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE**

ORDER

Before the court is a motion seeking leave to file supplemental pleadings filed by plaintiff Chad M. Bubrick. Tab #76. In this motion, the plaintiff begins by offering additional arguments relating to the motion seeking dismissal filed by defendant Darius Binnion which the undersigned, earlier this date, recommended granting. In addition, plaintiff Bubrick requests that service be ordered upon defendants Hunding, Binnion, and Boone and that he be allowed to amend his pleadings with regard to defendants Frazier, Butts, Lift, Hunding, Binnion, and Boone.

In response to these requests (Tab #80), the defendants note that, on December 1, 2009, service was directed upon defendants Hunding, Binnion, and Boone (Tab #58). They then observe that (1) a waiver of service was executed for defendant Binnion on December 17, 2009 (Tab # 62); (2) defendant Binnion subsequently filed a Pre-Answer Motion to dismiss requesting dismissal of all claims against him for plaintiff's failure to exhaust his administrative remedies (Tab #64); (3) defendant Hunding was served personally on February 2, 2010, (Tab #68); and, (4) defendant Hunding answered the plaintiff's recast complaint on February 11, 2010. (Tab #70).¹ Next, and with regard to the plaintiff's request to amend, the defendants argue that the request is untimely, unjustified, and, if allowed, would likely result in undue prejudice.

¹ The undersigned notes that, on December 14, 2009, the USM 285 Process Receipt and Return form issued for defendant Boone was returned to the court unexecuted and with the notation "no longer works here" written on the envelope. Tab #61.

CONCLUSION

In view of the above, and after a careful review of the record in this case, the arguments of the parties, and the relevant legal standards, the undersigned finds that the plaintiff's requests are moot and/or unjustified. Accordingly, the plaintiff's motion for leave to supplement is **DENIED**.

SO ORDERED, this 8th day of JUNE, 2010.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE